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7 *Attorneys for Defendant United States*

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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 Trevor Reid, et al.,

13 Plaintiffs

14 v.

15 United States Department of the Interior, et
al.,

16 Defendants.

No. CV-22-00068-PHX-SMB

**SUBSTITUTED DEFENDANT
UNITED STATES OF AMERICA'S
MOTION TO CONSOLIDATE AND
EXTEND THE RESPONSIVE
PLEADING DEADLINE
(FIRST REQUEST TO EXTEND)**

17
18 The United States of America (“United States”), pursuant to Federal Rule of Civil
19 Procedure 1, 6(b), Local Rule of Civil Procedure 7.3, and further to its contemporaneously
20 filed Notice of Substitution—pursuant to the Federal Employee’s Liability Reform and
21 Tort Compensation Act of 1988, §§ 5, 6, Pub. L. No. 100-694 (1988)—for the individual
22 defendants Justin P. Doyle, David Ballam, and Cynthia Sirk-Fear and the claims asserted
23 against them under the Federal Torts Claims Act (“FTCA”) only, moves the Court for good
24 cause and in the interest of judicial economy to consolidate the United States’ responsive
25 pleading deadline and extend the deadline for sixty (60) days after proper service of process
26 is effectuated on the *still* unserved individual defendants Justin P. Doyle, David Ballam,
27 and Cynthia Sirk-Fear against whom constitutional claims are asserted. A consolidated
28 responsive pleading deadline for all defendants to all claims will facilitate the just, speedy,

1 and inexpensive determination of this matter.¹ The United States is not currently
 2 authorized to represent the individual defendants for the non-FTCA claims, and the
 3 requested extension would permit the individual defendants, once properly served, the
 4 opportunity to request such representation, and permit the Court to order one set of
 5 deadlines uniformly governing all claims. Good cause for granting this motion is also
 6 based on the following:

7 1. *Pro se* Plaintiffs Trevor Reid and Crystale Reason filed a complaint on
 8 January 12, 2022 against defendants U.S. Department of the Interior; National Park
 9 Service; Justine P. Doyle, individually and in his official capacity as a National Park
 10 Service law enforcement ranger; David Ballam, individually and in his official capacity as
 11 a National Park Service law enforcement ranger; Cynthia Sirk-Fear, individually and in her
 12 official capacity as a National Park Service law enforcement ranger; and one or more
 13 unknown named agents of the United States, called by the fictitious names John Doe or
 14 Jane Doe, whose identities are not yet known. (Doc. 1) (“Complaint”).

15 2. The Complaint asserts defendants committed tortious acts cognizable under
 16 the FTCA and other alleged federal and state constitutional violations. (Complaint, at
 17 ¶¶ 8, 14, 17, 27 – 42, 44, 46, 49, 51, 54, 56 – 58, 60 – 72).

18 3. The United States was not named in the Complaint.

19 4. Summonses were issued to each named defendant on January 14, 2022.
 20 (Doc. 5).

21 5. On January 18, 2022, the Court entered an Order addressing service
 22 deadlines and directing the Clerk of Court to terminate any defendant without further notice
 23 that was not served by April 12, 2022. (Doc. 8).

24 6. On April 18, 2022, Plaintiffs filed a Joint Motion to Extend Time for Service,
 25 requesting an additional sixty (60) days to serve the named defendants, and stated that
 26 Returned Receipts showed delivery of the Summons and Complaint by certified mail to

27
 28 ¹ Undersigned counsel conferred with *pro se* Plaintiffs Trevor Reid and Crystale Reason to
 confirm Plaintiffs’ position on the requested extension. Plaintiffs take no position on the
 requested extension.

1 the United States Attorney's Office for the District of Arizona and to the Attorney General
2 of the United States on April 12, 2022, and April 13, 2022, respectively. (Doc. 10).

3 7. On April 26, 2022, the Court entered an Order granting Plaintiff's Joint
4 Motion for Extension of Time for Service, extending the deadline for service of process 30
5 days from the then current deadline of April 12, 2022, to May 12, 2022, and directing the
6 Clerk of Court to terminate any defendant without further notice that was not served on
7 May 13, 2022. (Doc. 11).

8 8. May 2, 2022, an Affidavit of Service (Doc. 15) signed by Caitlyn Reid was
9 filed stating that on April 19, 2022, Caitlyn Reid placed copies of the Summons,
10 Complaint, and Orders (Docs. 6 and 7) in certified mail to named defendants in the
11 Complaint as follows:

- 12 • The U.S. Department of the Interior
13 1849 C Street, NW, Washington, DC 20240
- 14 • National Park Service
15 1849 C Street, NW, Washington, DC 20240
- 16 • Justin P. Doyle
17 18100 Park Headquarters Road, Triangle, VA 22172
- 18 • David Ballam
19 18100 Park Headquarters Road, Triangle, VA 22172
- 20 • Cynthia Sirk-Fear
21 18100 Park Headquarters Road, Triangle, VA 22172

22 9. Federal Rule of Civil Procedure 4(i)(3) states: "To serve a United States
23 officer or employee sued in an individual capacity for an act or omission occurring in
24 connection with duties performed on the United States' behalf (whether or not the officer
25 or employee is also sued in an official capacity), a party must serve the United States and
26 also serve the officer or employee under Rule 4(e), (f), or (g)." The attempted "service"
27 on the individual defendants reflected in Paragraph 8 above does not satisfy Rule 4(e)(2).
28 Such attempted service also does not satisfy Rule 4(e)(1): *see* Ariz. R. Civ. P. 4.1(d)

1 (mirroring Fed. R. Civ. P. 4(e)(2), plus additional alternative means or publication options);
2 and Va. Code. Ann. § 8.01-296 (substantively mirroring Fed. R. Civ. P. 4(e)(2)(A), (B),
3 plus additional option to post copy at the front door of the abode if certain mailing and
4 filing requirements followed, or by publication in certain cases). Plaintiffs attempted
5 “service” by mailing the Summonses and Complaint to the individual defendants at Park
6 Headquarters in Triangle, Virginia on April 19, 2022, did not lawfully effectuate service
7 on the individual defendants, who, upon information and belief, remain unserved to date.

8 10. Upon information and belief, defendant Justin P. Doyle passed away in early
9 2022.

10 For the reasons stated above, substituted defendant United States respectfully
11 requests that the Court enter an order consolidating and extending all defendants’
12 responsive pleading deadline to sixty (60) days after proper service is effectuated on the
13 individual defendants.

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16 RESPECTFULLY SUBMITTED this 10th day of June, 2022.

17
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19 United States Attorney
District of Arizona

20 s/Noel C. Capps
21 NOEL C. CAPPS
22 Assistant United States Attorney
23 *Attorneys for the United States*
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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal. A copy of the foregoing has also been mailed via U.S. First Class Mail and electronically transmitted by Notice of Electronic Filing to the following CM/ECF registrant(s):

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